IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4363 of 2007()

CC.1387/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, PATHANAMTHITTA

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REVN. PETITIONER: COMPLAINANT

K.NANDAKUMARAN NAIR, AGED 52 YEARS,
S/O. KUTTAPPAN NAIR, AIKKARA VEEDU, ELANTHOOR PO.,
ELANTHOOR VILLAGE, KOZHENCHERRY TALUK.

BY ADV. SRI.V.SETHUNATH

RESPONDENTS: RESPONDENTS/COMPLAINANT/STATE

THE STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P.No.4363 of 2007

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Dated this the 17th day of December, 2007

ORDER

The petitioner who is the complainant in C.C.No.1387 of 2006 on the file of J.F.C.M-I, Pathanamthitta for offences punishable under Section 138 of the Negotiable Instruments Act, 1881, in respect of a cheque for an amount of Rs.27,000/- challenges the order dated 14.11.07 dismissing the complaint under Section 204(4) Cr.P.C. for the alleged absence of the complainant and the alleged failure on the part of the complainant to remit the process fee for initiating proceedings under Section 82 and 83 Cr.P.C against the accused.

2. Since the impugned order was passed before the appearance of the accused before that court, notice to the accused is dispensed with in this revision.

3. It is true that the complainant was absent on 14.11.07 and process fee had not been remitted. But the learned Magistrate ought to have given the complainant sufficient opportunity to remit the process fee, since the accused in the case has been absconding for no fault of the complainant. The

impugned order is accordingly set aside and C.C.No.1387 of 2006 shall stand restored to file with a direction to dispose of the same, in accordance with law, after giving the appellant/complainant an opportunity to take steps under sections 82 and 83 Cr.P.C. The appellant shall appear before the court below on 21.1.08 without any further notice. By that time he shall have remitted the necessary process fee for the further progress of the case.

This Crl.R.P. is allowed as above.

V. RAMKUMAR, JUDGE

sj